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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,575	11/01/2001	Antonio Carlos Ribeiro Carvalho	J&J-2045	2649

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,575

Applicant(s)

CARVALHO ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004 and 23 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Sturino (5,713,886).

With respect to Claim 1: Sturino discloses the use of an absorbent article (10) comprising a central absorbent pad (L2) with a topsheet (14), backsheet (16) and core (12) located there between. Sturino discloses flaps (26,28) extending outward from the side edges of the central absorbent pad (L2) along the lateral centerline of the pad (L2), and two bending axes (dotted lines located in the front distal end 20), which converge towards the longitudinal centerline (See Figure 1).

With respect to Claim 4: Sturino discloses the width as the smallest part in the first distal end to be 29mm (column 2, line 38).

With respect to Claims 10-14: Sturino discloses the central absorbent pad (L2) is folded along bending axes to form a tapered shape, the side edges being

Art Unit: 3761

capable of being folded over an edge of the wearer's undergarment in use (column 3, lines 14-16).

Claims 1-3 and 10-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Molas (US2002/0078618 A1).

With respect to Claims 1-3: Molas discloses the use of a sanitary napkin (1) comprising a central absorbent pad (3) with a topsheet, backsheet and core located there between (page 2, paragraph 0022). Molas discloses flaps (4,5) extending outward of the side edges of the central absorbent pad (3) along the lateral centerline of the pad (3) and two bending axis (2) which are embossed lines (page 3, paragraph 0033), which are located inward of the side edge and converge towards the longitudinal centerline from the front through the transverse centerline and to the rear (See Figure 1).

With respect to Claims 10-14: See Page 3, paragraph 0033.

Claims 1-3, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Widlund et al. (5,931,162).

With respect to Claims 1-3: Widlund discloses the use of an absorbent article which as a sanitary napkin (see abstract) comprising a central absorbent pad with a topsheet (1), backsheet (2) and core (3) located there between. Widlund discloses the use of flaps (6) extending outward of the side edge of the central pad and along the lateral centerline of the pad (See Figure 6), and two bending axes (22, 23) which converge towards the longitudinal centerline, from the front through the transverse centerline and to the rear (see Figures 6-8).

With respect to Claim 6: See Figures 6-8.

Claim Rejections - 35 USC § 103

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sturino (5,713,886).

Sturino discloses the width of the first distal end to be less than 30mm, but fails to disclose the width in the first distal end to be between 15 and 20mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the width in the first distal end be 15-20mm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Widlund et al. (5,391,162).

Widlund, as disclosed above for Claims 1 and 6, has side margins which wrap around the garment (figures 6-8), and the side margins obviously have a width, however Widlund is silent as to what that width is, and therefore does not disclose the width of the side margin being at least 7mm or further 10-20mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the side margin have a width of greater than 7mm or between 10-20mm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

Applicant's arguments filed 26 July 2004 have been fully considered but they are not persuasive.

In response to the applicant's argument that Sturino fails to disclose each flap extending substantially along the lateral centerline of the central absorbent pad, it is noted that Sturino shows flaps 26 and 28 extending outwardly from the central absorbent pad L2, as shown in figure 1. The lateral centerline of the central absorbent pad L2 passes through the flaps 26 and 28, as shown in figure 1. While the lateral centerline of the entire article may not pass through the flaps of Sturino, the claim is drawn to the lateral centerline of the central absorbent pad. Sturino therefore discloses all aspects of the claimed invention.

In response to the applicant's argument that Molas fails to disclose flaps that extend laterally outward from each longitudinal side edge of the central absorbent pad, it is noted that Molas discloses flaps 4 and 5 that extend outward from the longitudinal side edges of the central absorbent pad 3, as shown in figure 1. While the flaps 4 and 5 define the longitudinal side edges of the entire article of Molas, they also extend outward from the side edges of the central absorbent pad 3. Molas therefore discloses all aspects of the claimed invention.

In response to the applicant's argument that Widlund fails to disclose two bending axes located inward from and adjacent to the respective longitudinal side edges of the central absorbent pad, it is noted that the central absorbent pad comprises the cover layer 1 and barrier layer 2 of Widlund. Widlund shows in figure 7, the bending axes 22 and 23 comprising the cover layer 1 and barrier

Art Unit: 3761

layer 2 of the central absorbent pad. While the bending axes of Widlund are located outward of the absorbent core 3, they are still located inward of the central absorbent pad. Widlund therefore discloses all aspects of the claimed invention.

With respect to claim 6, Widlund shows in figure 8 the portions of the cover layer 1 and barrier layer 2 that comprise the bending axes being folded under.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (703) 308-1412. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

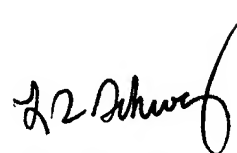
Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CIA

cla

September 30, 2004



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